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13 UNITED STATES OF AMERICA,  
14 Plaintiff,  
15 vs.  
16 MICHAEL RICHARD LYNCH AND  
17 STEPHEN KEITH CHAMBERLAIN  
Defendants.

CASE NO. 3:18-cr-00577-CRB

**DEFENDANT STEPHEN  
CHAMBERLAIN'S STATEMENT  
REGARDING GOVERNMENT'S  
PROPOSED BILL OF  
PARTICULARS**

Date: June 3, 2022  
Time: 1:30 p.m.  
Crtrm.:

Assigned to Hon. Charles R. Brever

1     **I. INTRODUCTION AND BACKGROUND**

2         Defendant Stephen Chamberlain submits this statement to address the  
 3 insufficiency of the Government's proposed bill of particulars (which the  
 4 Government submitted in connection with the parties' May 4, 2022 Stipulation).  
 5 ECF No. 110, Ex. A.

6         As the Stipulation notes, the parties have substantially narrowed the scope of  
 7 the issues presented to the Court by Mr. Chamberlain's November 1, 2021 Motion  
 8 for Bill of Particulars. ECF No. 85. Based on the Government's representation that  
 9 its case against Mr. Chamberlain as to Counts 1 through 15 will involve the same  
 10 transactions for which it introduced evidence of impropriety in the *United States v.*  
 11 *Hussain* trial, Mr. Chamberlain previously agreed to withdraw his motion as to those  
 12 counts.

13         With respect to Count 17, Mr. Chamberlain's motion initially asked the Court  
 14 to order,

15         For each overt act allegedly committed in furtherance of the conspiracy  
 16 charged in Count 17 in Paragraphs 34(a) through (g) [of the First  
 17 Superseding Indictment ("FSI")], identify (1) which of the four alleged  
 18 objects of the conspiracy (as stated in Paragraph 32) the government  
 19 alleges were furthered by the act; (2) the identities of all alleged  
 20 coconspirators the government alleges participated in the act; and (3)  
 21 the basis on which the government contends that the act furthered the  
 22 alleged conspiracy.

23         ECF No. 85 at 19.

24         Thereafter, as part of the parties' meet-and-confer discussions, Mr.  
 25 Chamberlain proposed a draft bill of particulars that, in his view, would adequately  
 26 clarify the nature of Count Seventeen as charged against him. A copy of that  
 27 proposal is attached as **Exhibit 1**. Mr. Chamberlain's proposal would have the  
 28 government state that the only overt act with which Mr. Chamberlain is charged is  
 the one that names him as an actor: Paragraph 34(e), which alleges that "[o]n or  
 about February 3, 2012, CHAMBERLAIN and Hussain directed an HP finance

1 employee to falsely record approximately \$5.5 million in revenue to be included in  
 2 HP's financial statements for the period ending January 31, 2012." It would narrow  
 3 the applicable scope of Paragraph 32 to the related statute: circumvention of a  
 4 system of internal accounting controls in violation of 15 U.S.C. § 78m, as alleged in  
 5 Paragraph 32(a). And it would clarify that the objective described in Paragraph 33  
 6 that Mr. Chamberlain is alleged to have furthered is the falsification of HP's  
 7 business records, as alleged in Paragraph 33(a).

8 In response, the Government proposed a broader bill of particulars (submitted  
 9 as Exhibit A to the parties' stipulation, ECF No. 110) that would include two  
 10 additional overt acts that relate to Mr. Chamberlain: Paragraphs 34(h) ("In or about  
 11 May 2012, a co-conspirator instructed an HP employee to erase CHAMBERLAIN's  
 12 laptop computer and any backup.") and 34(k) ("On or about July 6, 2012, LYNCH  
 13 caused the incorporation of ICP London Limited ('Invoke') in the British Virgin  
 14 Islands. LYNCH used Invoke and entities affiliated with Invoke as a means to pay  
 15 former Autonomy employees, including Hussain."). It correspondingly alleges that  
 16 Mr. Chamberlain conspired to violate witness tampering and obstruction laws, and  
 17 that Mr. Chamberlain furthered the objective of "altering, destroying, mutilating,  
 18 and concealing records, documents and objects with intent to impair their integrity  
 19 and availability for use in official proceedings" and "otherwise obstructing,  
 20 influencing, and impeding official proceedings." ECF No. 111 at 6.

21 Mr. Chamberlain respectfully submits that the Government's proposed bill of  
 22 particulars fails to meet the requirements of Federal Rule of Criminal Procedure 7  
 23 because it fails to describe, with adequate precision, what specific conduct Mr.  
 24 Chamberlain committed in connection with the overt acts alleged in Paragraphs  
 25 34(h) and 34(k) of the FSI.

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1       **II. ARGUMENT**

2           **A. The Government’s Proposed Bill of Particulars Fails to Provide**  
 3           **Mr. Chamberlain the Precise Nature of the Charges Against Him**

4           Although narrower than the version of Count 17 alleged in the FSI, the  
 5 Government’s proposed bill of particulars still fails to “inform [Mr. Chamberlain] of  
 6 the nature of the charge against him with sufficient precision to enable him to  
 7 prepare for trial.” *United States v. Giese*, 597 F.2d 1170 (9th Cir. 1979).  
 8 Specifically, the Government’s proposal does not explain what acts *Mr.*  
 9 *Chamberlain* is alleged to have committed in connection with the overt acts in  
 10 Paragraph 34(h) and 34(k), neither of which describes him as an active participant.

11           Paragraph 34(h) alleges that another unnamed “co-conspirator” instructed  
 12 another unknown “HP employee” to erase Mr. Chamberlain’s computer “[i]n or  
 13 about May 2012”—months after he stopped working for Autonomy. It does not  
 14 allege that Mr. Chamberlain knew of or in any way assisted the unnamed HP  
 15 employee in erasing his computer. The Government’s proposed bill of particulars  
 16 does not supplement this allegation in any way—it only states that this allegation  
 17 “relat[es] to” Mr. Chamberlain. That does not inform Mr. Chamberlain, with the  
 18 required precision, how he is alleged to have participated in the destruction of his  
 19 computer data (and against what specific facts he will have to defend in connection  
 20 with that charge).

21           Likewise, Paragraph 34(k) alleges, “On or about July 6, 2012, LYNCH  
 22 caused the incorporation of ICP London Limited (‘Invoke’) in the British Virgin  
 23 Islands. LYNCH used Invoke and entities affiliated with Invoke as a means to pay  
 24 former Autonomy employees, including Hussain.” The only actor named in this  
 25 allegation is Mr. Lynch. The allegation does not state that this overt act was  
 26 committed with any co-conspirators. The Government’s proposed bill of particulars  
 27 does not add any new detail: it does not allege any facts indicating that Mr.  
 28 Chamberlain aided this effort by Mr. Lynch, or that Mr. Chamberlain in any way

1 joined a conspiracy to influence witnesses or otherwise impede the government’s  
 2 investigation. As with the government’s reference to Paragraph 34(h), Mr.  
 3 Chamberlain is left to guess what acts he is charged with committing, and how to  
 4 defend against those charges.

5       The only “overt act” alleged in Count 17 that actually describes conduct by  
 6 Mr. Chamberlain is Paragraph 34(e)—“direct[ing] an HP finance employee to  
 7 falsely record revenue.” The statute this allegedly relates to is 15 U.S.C. § 78m. The  
 8 related objective is “falsifying, destroying, and stealing business records of HP”.  
 9 Paragraphs 32 and 33 of the FSI should therefore be narrowed appropriately. These  
 10 revisions are reflected in Mr. Chamberlain’s proposed bill of particulars, attached as  
 11 Exhibit 1.

12       **B. The Government Should Not Be Permitted to Charge Mr.  
 13 Chamberlain Based on Acts for Which It Does Not Have  
 14 Supporting Evidence**

15       During the meet-and-confer process, the government has acknowledged that it  
 16 is not presently aware of specific evidence suggesting that Mr. Chamberlain  
 17 participated in the destruction of his laptop, or in Mr. Lynch’s hiring of former  
 18 Autonomy employees. Thus, Mr. Chamberlain cannot even locate any particulars in  
 19 the discovery. Instead, the government’s proposed bill of particulars states only that  
 20 Paragraphs 34(h) and 34(k) describe acts that “relate” to Mr. Chamberlain. That  
 21 does not provide particulars of any criminal act committed by Mr. Chamberlain.  
 22 While Paragraph 34(h) “relates” to Mr. Chamberlain because it concerns the  
 23 destruction of his former computer, the Government has not alleged (or identified  
 24 evidence suggesting) that Mr. Chamberlain was involved in that act. The same is  
 25 true for Paragraph 34(k): while that allegation may “relate” to Mr. Chamberlain  
 26 because he is a former employee who was eventually hired by Darktrace, the  
 27 government has not alleged (or identified evidence that would support an allegation)  
 28 that Mr. Chamberlain participated in that process, and Mr. Chamberlain could not be

1 convicted of conspiracy based on that act alone without evidence of such  
2 participation.

3 Counsel is unaware of—and the government has not identified any—evidence  
4 that Mr. Chamberlain actually participated in either of the two additional acts that  
5 the government seeks to include in its proposed bill of particulars, and there is no  
6 reason to permit the government to maintain these allegations without specifying  
7 what specific acts Mr. Chamberlain committed to support a theory that he  
8 participated in the alleged acts. Accordingly, its proposed bill of particulars still fails  
9 to comply with the requirements of Federal Rule of Criminal Procedure 7 as to  
10 Count 17.

11 **III. CONCLUSION**

12 For these reasons, the Court should conclude that the Government's proposed  
13 bill of particulars fails to comply with the requirements of Rule 7, and that the  
14 Government should file Mr. Chamberlain's proposed bill of particulars.

15  
16 DATED: May 13, 2022

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By: \_\_\_\_\_ /s/ Gary S. Lincenberg  
\_\_\_\_\_  
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Chamberlain

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# EXHIBIT 1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
MICHAEL RICHARD LYNCH AND  
STEPHEN KEITH CHAMBERLAIN  
Defendants.

CASE NO. 3:18-cr-00577-CRB  
**UNITED STATES' BILL OF  
PARTICULARS FOR COUNT  
SEVENTEEN OF THE FIRST  
SUPERSEDING INDICTMENT AS  
TO DEFENDANT STEPHEN  
CHAMBERLAIN**  
**[PROPOSED BY DEFENDANT  
STEPHEN CHAMBERLAIN]**

Assigned to Hon. Charles R. Brever

The United States files this bill of particulars as to Count Seventeen of the First Superseding Indictment (“FSI”), as charged against Defendant Stephen Chamberlain.

1. The overt act alleged in Count Seventeen of the First Superseding Indictment against Mr. Chamberlain is the act alleged in Paragraph 34(e), to wit that “[o]n or about February 3, 2012, CHAMBERLAIN and Hussain directed an HP finance employee to falsely record approximately \$5.5 million in revenue to be included in HP’s financial statements for the period ending January 31, 2012.”

9       2.     The specific offense in Paragraph 32 that Mr. Chamberlain is alleged to  
10 have conspired to commit is “(a) circumventing a system of internal accounting  
11 controls of an issuer of securities registered under Section 12 of the Securities  
12 Exchange Act of 1934, in violation of [15 U.S.C. § 78m].”

13       3.     The conspiracy objective alleged in Paragraph 33 in which Mr.  
14 Chamberlain is alleged to have participated is to "cover up" or "conceal" the  
15 "scheme to defraud set forth in paragraphs 19 through 24" by falsifying business  
16 records of HP.

18 DATED: March , 2022 Respectfully submitted,

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